IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 23010 of 2007(L)

PETITIONER:

N.RAJAGOPAL, JOINT DIRECTOR,
DEPARTMENT OF TOURISM, PARK VIEW,
THIRUVANANTHAPURAM.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.P.K.MANOJKUMAR
SMT.SUSHYA RAJAN

RESPONDENTS:
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1. THE STATE OF KERALA REPRESENTED BY
THE PRINCIPAL SECRETARY TO GOVERNMENT (TOURISM)
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DEPARTMENTAL PROMOTION COMMITTEE
(HIGHER) FOR SELECTION TO THE POST OF DIRECTOR AND
ADDITIONAL DIRECTOR (TOURISM) REPRESENTED BY ITS
CONVENOR, THE PRINCIPAL SECRETARY TO GOVERNMENT,
TOURISM, SECRETARIAT, THIRUVANANTHAPURAM.

3. V.A.AURANGAZEEB, JOINT DIRECTOR,
(HOSPITALITY) TOURISM DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. BALAKRISHNAN NAIR, J.

W.P.(C) No. 23010 of 2007-L

JUDGMENT

The petitioner is working as Joint Director in the Department of Tourism. He is aggrieved by Ext.P8 D.P.C list of eligible officers for promotion to the post of Joint Director, published by the Government. He takes exception to the inclusion of Sri.V.A.Aurangazeeb in the said list, who is found eligible for promotion with effect from 21.8.1997. The petitioner is also aggrieved by Ext.P13 D.P.C list of officers, for promotion to the post of Additional Director (Hospitality), in which the said Aurangazeeb is included for promotion with effect from 1.12.2005. His representations against those lists were directed to be considered by this Court, by Ext.P14 judgment. The petitioner was heard and the Government disposed of the said representations by Ext.P15 order dated 11.4.2007.

2. The appointment to the post of Joint Director was governed by the Special Rules issued by the Government dated 29.9.1995. The petitioner was eligible for promotion to the said post in

terms of the said Rules. But, the Rules were amended with effect from 24.9.1996. As per the amended Rules, the petitioner was not qualified. But,he raised a contention that the vacancy in which he could be accommodated arose before 24.9.1996. The Government considered the said claim and held that two vacancies arose before the amendment. But, there were two claimants, M/s.T.D.Sethumadhavan and A.Sahadevan for those posts. The petitioner's turn arose only on 1.12.1996. By that time the amendment came into force, as per which he was not qualified. The above factual finding is not seriously disputed in the writ petition. But, it is pointed out that the Government have issued Ext.P3 order in 2001, making the qualification possessed by the petitioner as equivalent to the prescribed qualification. Therefore, he was also liable to be considered for promotion according to his turn, it is submitted. But, the said development occurred only in 2001. The same cannot help the petitioner for getting promotion in 1996.

3. In view of the above position, the rejection of the petitioner's claim on the ground that when the vacancy arose, the petitioner was not qualified, cannot be said to be illegal or irrational,

warranting interference by this Court under Article 226 of the Constitution of India. Accordingly, the writ petition fails and it is dismissed.

K. BALAKRISHNAN NAIR,
JUDGE.

27th July, 2007.
nm.